

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: 11/21/2022

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:

UNITED STATES OF AMERICA :

-v.- :

BRIAN KOLFAGE, :

Defendant. :

**FINAL ORDER OF
FORFEITURE**

20 Cr. 412 (AT)

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WHEREAS, on or about April 22, 2022, this Court entered a Consent Preliminary Order of Forfeiture as to Specific Property/ Money Judgment (D.E. 180) (the “ First Preliminary Order”), which ordered the forfeiture to the United States of all right, title and interest of BRIAN KOLFAGE (the “Defendant”) in the following property:

- a) \$1,371,418 contained in the Capital One account number 3027095806, held in the name of WeBuildtheWall, Inc. (the “Capital One Account”);

(the “Specific Property-1”);

WHEREAS, on or about September 6, 2022, this Court entered a Second Consent Preliminary Order of Forfeiture as to Specific Property (D.E. 275) (the “Second Preliminary Order”, together with the First Preliminary Order, the “Forfeiture Orders”), which ordered the forfeiture to the United States of all right, title and interest of BRIAN KOLFAGE (the “Defendant”) in the following property:

- a) \$5,179.39 in United States currency in the Anedot, Inc. account, held in the name of WeBuildTheWall, Inc. (the “Anedot Account”); and
- b) The real property located in Sunland Park, New Mexico, with the legal description as follows: a tract of land situated within the International Placer Claim No. 1162, Dona Ana County Parcel No. R16038822, Sections 15 and 16, Township 29 South, Range 4 East, New Mexico Principal Meridian, City of Sunland Park, Dona Ana County, New Mexico (the “Sunland Park Property”);

(a. and b., collectively, the “Specific Property-2”, together with Specific Property-1, the “Specific Properties);

WHEREAS, the Forfeiture Orders directed the United States to publish, for at least thirty (30) consecutive days, notice of the Forfeiture Orders, notice of the United States’ intent to dispose of the Specific Properties, and the requirement that any person asserting a legal interest in the Specific Properties must file a petition with the Court in accordance with the requirements of Title 21, United States Code, Sections 853(n)(2) and (3). The Forfeiture Orders further stated that the United States could, to the extent practicable, provide direct written notice to any person known to have an alleged interest in the Specific Properties and as a substitute for published notice as to those persons so notified;

WHEREAS, the provisions of Title 21, United State Code, Section 853(n)(1), Rule 32.2(b)(6) of the Federal Rules of Criminal Procedure, and Rules G(4)(a)(iv)(C) and G(5)(a)(ii) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, require publication of a notice of forfeiture and of the Government’s intent to dispose of the Specific Properties before the United States can have clear title to the Specific Properties;

WHEREAS, the Notice of Forfeiture and the intent of the United States to dispose of the Specific Property-1 was posted on an official government internet site (www.forfeiture.gov) beginning on September 13, 2020, for thirty (30) consecutive days, through October 12, 2020, pursuant to Rule G(4)(a)(iv)(C) of the Supplemental Rules for Admiralty and Maritime Claims and Asset Forfeiture Actions and proof of such publication was filed with the Clerk of the Court on November 16, 2022 (D.E. 337);

WHEREAS, on or about August 2, 2022, notice of the First Preliminary Order was sent by email, to:

i. GoFundMe, Inc.
c/o Yoshiko Inoue, Esq.
yinoue@gofundme.com

ii. Anedot
c/o Paul Dietzel
paul@anedot.com

iii. Amanda Shea
c/o Sarah M. Sacks, Esq.
sarahsacksesq@gmail.com

iv. Kris Kobach
c/o Justin Weddle, Esq.
jweddle@weddlelaw.com

(collectively, the “Noticed Parties-1”);

WHEREAS, the Defendant and the Noticed Parties-1 are the only people and/or entities known by the Government to have a potential interest the Specific Property-1;

WHEREAS, thirty (30) days have expired since final publication of the Notice of Forfeiture and no petitions or claims to contest the forfeiture of the Specific Property-1 have been filed;

WHEREAS, the Notice of Forfeiture and the intent of the United States to dispose of the Specific Property-2 was posted on an official government internet site (www.forfeiture.gov) beginning on September 16, 2022, for thirty (30) consecutive days, through October 15, 2022, pursuant to Rule G(4)(a)(iv)(C) of the Supplemental Rules for Admiralty and Maritime Claims and Asset Forfeiture Actions and proof of such publication was filed with the Clerk of the Court on November 17, 2022 (D.E. 338);

WHEREAS, on or about September 9, 2022, notice of the Second Preliminary Order was sent by email, to:

i. Anedot
c/o Paul Dietzel
paul@anedot.com

ii. Amanda Shea
c/o Sarah M. Sacks, Esq.
sarahsacksesq@gmail.com

(collectively, the “Noticed Parties-2”);

WHEREAS, the Defendant and the Noticed Parties-2 are the only people and/or entities known by the Government to have a potential interest the Specific Property-2;

WHEREAS, thirty (30) days have expired since final publication of the Notice of Forfeiture and no petitions or claims to contest the forfeiture of the Specific Property-2 have been filed; and

WHEREAS, pursuant to Title 21, United States Code, Section 853(n)(7), the United States shall have clear title to any forfeited property if no petitions for a hearing to contest the forfeiture have been filed within thirty (30) days of final publication of notice of forfeiture as set forth in Title 21, United States Code, Section 853(n)(2).

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED THAT:

1. All right, title and interest in the Specific Properties is hereby forfeited and vested in the United States of America, and shall be disposed of according to law.

2. Pursuant to Title 21, United States Code, Section 853(n)(7) the United States of America shall and is hereby deemed to have clear title to the Specific Properties.

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3. The United States Marshals Service (or its designee) shall take possession of the Specific Properties and dispose of the same according to law, in accordance with Title 21, United States Code, Section 853(h).

Dated: New York, New York
November 21, 2022

SO ORDERED:



HONORABLE ANALISA TORRES
UNITED STATES DISTRICT JUDGE